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REMARKS

The amendments and remarks presented herein are believed to be fully responsive to the Office Action dated October 17, 2005. Accordingly, reconsideration is required. The amendments presented herein are fully supported by the application as originally filed. No new matter has been entered.

Claim Objections.

Claim 16 is objected to because it is dependent on cancelled Claim 15. Accordingly, Claim 16 has been amended, and is now dependent on Claim 14.

Status of Claims.

Claims 1, 3, 4, 6, 7, 9-11, 13, 14, 16, 17, and 19-35 are pending in the application. Claims 2, 5, 8, 12, 15, 18, 36 and 37 have been canceled.

Claim Rejections – 35 U.S.C. § 103.

Claims 1-14, 16, 17 and 19-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,050,493 issued to Fertig in view of U.S. Patent No. 6,467,684 issued to Fite et al.

Applicant respectfully traverses. However, to expedite prosecution, Claim 1 has been amended as follows:

A method of selling and delivering a product, said method comprising:
encoding a product card with a product identification code and a card identification code;
storing the product identification code and the card identification code in a computer system;
distributing the product card to a retailer;

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after receipt by the retailer, communicating the product identification code and the card identification code of the received product card to the computer system wherein said communicating validates the product card;
arranging the received product card on a display for retrieval by a purchaser;
collecting revenue from a purchaser of the card after the card is retrieved from the display;
activating the card after the card is purchased so that the card can be redeemed;
receiving the product identification code and the card identification code and delivery information from the redeemer of the card;
before inputting the delivery information into the computer system determining whether the card identification code represents a valid and activated card in the computer system; and
if the card identification code represents a valid and activated card inputting the delivery information in to the computer system and delivering a product associated with the product information to a location associated with the delivery information.

Claim 14 has been amended to correct a grammatical error.

With respect to Claims 1, 6, 14 and 16, it would not be obvious to combine the system disclosed in Fite, which incorporates a card vendor terminal, with the pre-paid gift card disclosed in Fertig. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or references when combined must teach or suggest all the claimed limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art and not based on

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Applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). See MPEP § 2143.

Applicant respectfully urges that there is no motivation or suggestion to combine the system of Fite with the pre-paid gift card of Fertig since such a combination would change the principle operation of the system of Fertig. Fertig is directed to a pre-paid card that includes illustrations on the card of pre-selected items that can be purchased using the card. Therefore, the card is selected by viewing the card itself. In contrast, Fite is directed to the sale of cash cards that are purchased and dispensed from a vendor terminal where a card is selected based only its dollar value—therefore, there is no need to see the card except only after purchase to confirm that the card is worth what the customer paid. Further, the Examiner concedes that Fertig does not disclose a computer system for storing the product card information and receiving input information from a gift card holder.

However, the Examiner concludes that it would have been obvious to one of ordinary skill in the art to “further employ a host computer system in addition to the prepaid flower or gift card system of Fertig” Applicant respectfully urges that it would not be obvious to employ Fite's system to sell Fertig's cards because such a combination would change the principal operation of the Fertig system, which relies on customers to be able to look at the cards themselves to select the type of items they wish to purchase—not merely select the dollar value. Applicant respectfully urges that the Examiner has engaged in a hindsight reconstruction of the references based on Applicant's own teachings, and not the teachings of the references. Thus, such a modification would not be obvious. *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984).

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Applicant also respectfully urges that even when combined, Fite and Fertig do not disclose, teach, or suggest all the limitations of the claimed invention. The Examiner concedes that Fertig does not specifically disclose a computer system storing the product card information and receiving input information from a gift card holder. Therefore, the Examiner relies on Fite, which discloses a host computer in conjunction with a card vendor terminal. In Fite, the pre-paid cards are purchased from the card vendor terminal, which incorporates a computer which is linked through the Internet or other communication means to a host database. In contrast, the present invention arranges the cards on a display (as previously called for in Claim 12, which is now incorporated into Claim 1) or displaying the validated card (as called for in Claim 14), which are then retrieved by a purchaser and thereafter can be purchased. Accordingly, even when combined as suggested by the Examiner the references do not teach the claimed combination--in order to arrive at the present claimed invention, the Fite system would have to be fundamentally changed. As such, such a proposed combination is not disclosed and not obvious.

In addition, neither Fite nor Fertig, alone or in combination, provide a process involving two separate steps for activating and validating a pre-paid product card, as called for in the claims. In Fertig, a pre-paid flower or gift card has a magnetic strip that is passed through a read-out device by a sales cashier, which automatically activates the card. Instructional information on the back of the card includes a PIN number, unique to each card. Optionally, the PIN number is not effective until the magnetic stripe is processed through the read-out device. (col. 2, ll. 58-67 of Fertig). However, Fertig does not disclose the additional step of validating the card.

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In *Fite*, at the time of purchase of a pre-paid gift card, a customer may be prompted to select a 4-digit number, which is entered into the card vendor terminal and activated by the magnetic swiping (or other reading device) procedure. In order to use this card, the 4-digit card code must be provided in addition to the card identification number. (col. 3, ll. 38-52 of *Fite*). According to the Examiner, this element of the process disclosed in *Fite et al.* is considered "validating the product card." Applicant respectfully urges that this is the element in which the card is activated, as opposed to the element in which the card is validated. Therefore, *Fite* does not disclose a separate validation element. However, regardless of whether the element is considered "validating" or "activating" the card, there is no separate or additional step in which the card is validated upon receipt by a retailer, as called for in the claims.

In contrast, the present invention includes a both a validation element *and* an activation element. In the present invention, a card is validated upon receipt of the card by the retailer. As reflected in the amendment to Claim 1 and in Claim 14, the retailer communicates the product identification code and the card identification code of the received card to the computer system, thus validating the card. However, there is a further element of the present invention in which the card is activated. Upon sale of the card, or at a later time, the card is then activated. This activation element is required so that the card can be redeemed. In this manner, the card cannot be used without the card being validated and then being activated; therefore, the risk of loss is decreased.

Accordingly, Applicant respectfully submits that the combination of Fowler and Fertig, does not disclose, teach, or suggest all of the limitations called for in Claim 1 or its dependent claims.

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With respect to Claims 3, 4, 7, 9-11, 13, 17 and 19-24, Applicant submits that neither Fite nor Fertig, alone or in combination, discloses, teaches or suggests all of the claimed limitations for at least the reasons set forth above in reference to Claims 1 and 14.

With respect to Claims 25-28, the Examiner again concedes that Fertig does not disclose a computer system storing the product card information and receiving input information from a gift card holder. Applicant respectfully urges that combining Fertig with Fite does not render the claimed system obvious.

As stated above, Fite discloses a host computer in conjunction with a card vendor terminal. In Fite, the pre-paid cards are purchased from the card vendor terminal, which incorporates a computer which is linked through the Internet or other communication means to a host database. In contrast, Claim 25 now calls for a card that is arranged on a display for retrieval by a customer and then purchased by the customer. Accordingly, if Fite were combined with Fertig to attempt to arrive at the present invention, the process of Fite would have to be fundamentally changed.

With respect to Claims 29-35, Applicant submits that neither Fite nor Fertig, alone or in combination, discloses, teaches or suggests all of the claimed limitations for at least the reasons set forth above in reference to Claims 25-28.

The amendments presented herein are fully supported by the application as filed. Accordingly, no new matter is added. Issuance of a Notice of Allowance is sincerely requested.

If Examiner Park has any questions or suggestions, Examiner Park is requested to call the undersigned attorney.

Respectfully submitted,

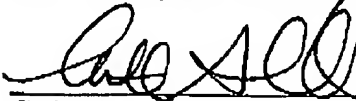
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Dated: April 17, 2006,



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